

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CAMBRIA COMPANY LLC,

Plaintiff,

Civil No. 1:20-cv-00508-JMB-PJG

v.

Honorable Jane M. Beckering

LAKESIDE SURFACES, INC.,

Defendant.

**ORDER GRANTING DEFENDANT LAKESIDE SURFACES, INC.'S
MOTION FOR SPOILIATION SANCTIONS PURSUANT TO
FEDERAL RULES OF CIVIL PROCEDURE 26 AND 37(c)(1)**

On this ____ day of _____, 2022, upon consideration of Defendant Lakeside Surfaces, Inc.'s ("Lakeside Surfaces") Motion for Spoliation Sanctions Pursuant to Federal Rules of Civil Procedure 26 and 37(c) filed against Plaintiff Cambria Company, Inc., and for good cause shown, the Court **ORDERS, ADJUDGES AND DECREES** that Lakeside Surfaces has met its burden of proving by a preponderance of the evidence that Cambria's spoliation of conception evidence related to the invention in U.S. Design Patent No. 780,332 (the "D'332 Patent") was grossly negligent or intentional, and highly prejudicial, and that Cambria has failed to rebut this presumption. Accordingly, Lakeside Surfaces's Motion is **GRANTED**.

IT IS FURTHER ORDERED that sanctions are appropriate pursuant to Rule 37(c)(1)(C). The Court hereby **GRANTS** Lakeside Surface's requested relief and enters the following as conclusively established facts for purposes of this action: (i) the marble samples given to Cambria's CEO and Founder Martin Davis by Cambria's former Georgia-based dealer, the picture taken by Davis of the same, and the other conception evidence spoliated by Cambria, all showed the same design as is shown in U.S. Design Patent No. 780,332 (the "D'332 Patent"); (ii) the D'332

design was meant to embody the form and features of natural quarried marble, and (iii) there is no significant departure from that form as to render the design of the D'332 Patent sufficiently distinctive from natural quarried stone.

It is **FURTHER ORDERED** that Plaintiff Cambria must pay Lakeside Surface's fees and costs associated with Plaintiff Cambria's Spoliation. Lakeside shall file and serve appropriate declarations concerning same within 10 days of the date of this Order.

BY THE COURT:

_____. J.